

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

TERRY JOE ROBERTS,

Plaintiff(s),

v.

SECC DEPARTMENT OF
CORRECTIONS, et al.,

Defendant(s).

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No. 1:22-cv-00004-SRC

Order to Show Cause

This matter is before the Court for review pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. Review of the record indicates that the Defendants in this action have not been served with process. As such, Plaintiff must show cause, by no later than **December 28, 2022**, why the Court should not dismiss this action.

Plaintiff Terry Joe Roberts, an inmate at Southeast Correctional Center, filed this action on January 7, 2021. Doc. 1. He asserts that defendant Shawn Brunelle violated his civil rights by subjecting him to excessive force by slamming him against the sally-port windows and body-slaming him in the hallway. Plaintiff further alleges that Defendants Unknown Reeves and Unknown Crass retaliated against him in violation of the First Amendment by giving him a conduct violation for filing a claim under the Prison Rape Elimination Act. On September 2, 2022, the Court directed the Clerk of Court to issue process on Plaintiff's claims against Defendants in their individual capacities pursuant to 28 U.S.C. § 1915A. Doc.16.

Because Plaintiff paid the filing fee in full, he is responsible for serving the Defendants under 28 U.S.C. § 1915A. The Court instructed Plaintiff in the September 2, 2022 Memorandum and Order that timely service was required no later than December 1, 2022. Doc. 16.

Rule 4(m) of the Federal Rules of Civil Procedure provides:

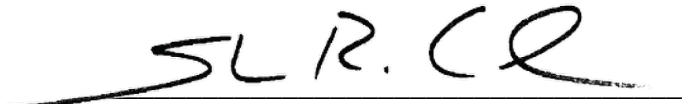
If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

In the case at bar, it has been more than ninety (90) days since Plaintiff filed his complaint naming Defendants.¹ As noted above, Rule 4(m) of the Federal Rules of Civil Procedure provides that the Court, after notice to a plaintiff, shall dismiss an action against any defendant upon whom service has not been timely made.

Plaintiff must show cause, by no later than **December 28, 2022**, why the Court should not dismiss this action under to Federal Rule of Civil Procedure 4(m) for lack of timely service.

Accordingly, no later than **December 28, 2022**, Plaintiff shall show cause why service has not been effectuated on defendants in a timely manner. In the absence of good cause shown, the Court will dismiss this action, without prejudice, under Rule 4(m) of the Federal Rules of Civil Procedure.

Dated this 7th day of December, 2022.


STEPHEN R. CLARK
UNITED STATES DISTRICT JUDGE

¹ Because initial review of Plaintiff's complaint was not completed until September 2, 2022, Plaintiff was allowed until December 1, 2022, to serve process on Defendants in their individual capacities.